

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

KENNEDY, 1970

98 JUN -8 PM 2:24

**MR. STARKEY ADKINS  
1191 Adams Road  
Beaver, OH 45613**

: CASE NO.

110

MR. DONALD AILIFF  
MRS. DARLA AILIFF  
DUSTIN AILIFF, a minor,  
by his Mother and Next Friend;  
NELSON AILIFF, a minor,  
by his Mother and Next Friend;  
NATHAN AILIFF, a minor,  
by his Mother and Next Friend;  
STARSHA AILIFF, a minor,  
by her Mother and Next Friend  
1211 Sugar Run Road  
Piketon, OH 45661

: **COMPLAINT AND  
JURY DEMAND**

DEMAND  
C2 98 - 595

MAGISTRATE JUDGE ABEL

**MS. CHARLENE ALLEY  
7308 Germany Road  
- NO FORWARD 10/01/95  
Waverly, OH 45690**

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MR. CLYDE BLANTON  
MRS. MILDRED BLANTON  
2156 Big Run Road  
Piketon, OH 45661

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MS. GERTRUDE BLANTON  
5232 Germany Road  
Beaver, OH 45613

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MR. NORMAN BLISS  
- NO FORWARD 4/27/98

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**MR. DANNY BOLEN** :  
**3102 Bobo Road** :  
**- NO FORWARD 4/20/97** :  
**Beaver, OH 45613** :  
  
**MS. PAMELA BOLEN** :  
**644 Market Street Apt. J-4** :  
**Piketon, OH 45661** :  
  
**MR. and MRS. JOHN BOWEN** :  
**1440 Germany Road** :  
**Lucasville, OH 45648** :  
  
**MS. EILEEN BOYD** :  
**523 Bowen Road** :  
**Lucasville, OH 45648** :  
  
**MR. HAROLD BRIGNER** :  
**MRS. BETTY BRIGNER** :  
**234 Brigner Road** :  
**Beaver, OH 45613** :  
  
**MS. MARTHA BRIGNER** :  
**113 Brigner Road** :  
**Beaver, OH 45613** :  
  
**MR. MONTY EUGENE BRIGNER** :  
**113 Brigner Road** :  
**Beaver, OH 45613** :  
  
**MR. EARL BRIGNER, JR.** :  
**232 Brigner Road** :  
**Beaver, OH 45613** :  
  
**MR. ROBERT BRIGNER, JR.** :  
**MRS. KIM BRIGNER** :  
**4911 Castle Drive** :  
**Dayton, OH** :  
  
:

<b>MR. KENNETH L. BROWNFIELD</b>	:
3609 Lapperal Road	:
Peebles, OH 45660	:
ESTATE OF MS. ELENA BURRESS	:
DECEASED	:
Piketon, OH 45661	:
MR. JAMES CASH	:
MRS. ANNA CASH	:
- NO FORWARD	:
MS. SHEILA CHANCEY	:
Indian Ridge Apartments, Apt. 151	:
Piketon, OH 45661	:
MS. CATHERINE CHANDLER	:
569 Buck Hollow Road	:
Beaver, OH 45613	:
MR. RALPH CONKEL	:
MRS. DEBRA CONKEL	:
- NO FORWARD 4/27/98	:
MR. HOMER COOK	:
MRS. WONDA COOK	:
130 Salt Creek Road	:
Wakefield, OH 45687	:
MR. HOMER COOK, JR.	:
130 Salt Creek Road	:
Wakefield, OH 45687	:
MR. BECKHAM COPLEY	:
107 Hodge Road	:
Piketon, OH 45661	:

<b>MRS. WANDA COPLEY</b>	:
<b>107 Hodge Road</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MR. ROGER COTTRILL</b>	:
<b>MRS. CHARLENE COTTRILL</b>	:
<b>Chris COTTRILL, a minor,</b>	:
<b>by his Mother and Next Friend;</b>	:
<b>- NO FORWARD</b>	:
	:
<b>MS. IDA M. CREMEANS</b>	:
<b>P.O. Box 311</b>	:
<b>Beaver, OH 45613</b>	:
	:
<b>MS. FREDA CUNNINGHAM</b>	:
<b>8648 SR 104</b>	:
<b>- NO FORWARD 10/16/95</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MR. MARVIN DAVIS</b>	:
<b>MRS. BELINDA DAVIS</b>	:
<b>JEFF DAVIS</b>	:
<b>MELODY DAVIS</b>	:
<b>144 Curtis Lane</b>	:
<b>Waverly, OH 45690</b>	:
	:
<b>MR. ROBERT DEARTH</b>	:
<b>MRS. ANN DEARTH</b>	:
<b>301 Darst Road</b>	:
<b>Waverly, OH 45690</b>	:
	:
<b>MR. JEFF DEWITT</b>	:
<b>MRS. DIANNA DEWITT</b>	:
<b>981 SR 552</b>	:
<b>- NO FORWARD 10/16/95</b>	:
<b>Waverly, OH 45690</b>	:

<b>MRS. SANDRA DOBBINS</b>	:
2148 Tennyson Road	:
- NO FORWARD 7/18/96	:
Piketon, OH 45661	:
	:
<b>MR. WILLIAM DOSS</b>	:
<b>MRS. ELVA JEAN DOSS</b>	:
105 Old State Rt. 335	:
Minford, OH 45653	:
	:
<b>MR. JAMES DOWNING</b>	:
<b>MRS. LINDA DOWNING</b>	:
509 Town Street	:
- NO FORWARD 10/16/95	:
Waverly, OH 45690	:
	:
<b>MS. DOROTHY K. DUNHAM</b>	:
255 Bailey Chapel Road	:
Piketon, OH 45661	:
	:
<b>MR. MARSHALL EVANS</b>	:
<b>MRS. BESSIE EVANS</b>	:
277 Ratcliff Road	:
Beaver, OH 45613	:
	:
<b>MR. DAVID FRANCIS</b>	:
<b>MRS. LOUISE FRANCIS</b>	:
2103 Happy Hollow Road	:
Piketon, OH 45661	:
	:
<b>MR. JAMES FRANCIS</b>	:
244 Carrico Fork Road	:
Piketon, OH 45661	:
	:
<b>MS. MICHELLE FRANCIS</b>	:
2637 Dutch Run Road	:
Beaver, OH 45613	:

<b>MS. LINDA SUE FYFFE</b>	:
<b>202 Bailey Chapel Road</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MR. GARY GALLOWAY</b>	:
<b>MRS. CATHY GALLOWAY</b>	:
<b>8648 SR 104</b>	:
<b>- NO FORWARD 10/18/95</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MR. BILLY JOE GAMBILL</b>	:
<b>P.O. Box 572</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MS. RHONDA GAMBILL</b>	:
<b>P.O. Box 572</b>	:
<b>Piketon, OH 45661</b>	:
	:
<b>MRS. FLORA GARLAND</b>	:
<b>JAMES SEYMOUR, a minor,</b>	:
<b>by his Mother and next Friend;</b>	:
<b>MARY SEYMOUR, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>1742 Beekman Ridge Road</b>	:
<b>Peebles, OH 45660</b>	:
	:
<b>MS. CHRISTINA GOWEN</b>	:
<b>1671 Newland Ridge Road</b>	:
<b>Waverly, OH 45690</b>	:
	:
<b>MS. ELIZABETH GOWEN</b>	:
<b>1671 Newland Ridge Road</b>	:
<b>Waverly, OH 45690</b>	:
	:
<b>MS. WINDY L. GOWEN</b>	:
<b>1671 Newland Ridge Road</b>	:
<b>Waverly, OH 45690</b>	:

**MR. LARRY BERT GREENE** :  
- NO FORWARD :  
  
**MR. GEORGE KELLY GROOMS** :  
**5176 Long Fork Road** :  
**Piketon, OH 45661** :  
  
**MRS. GEORGIA (DOLLY) GROOMS** :  
**518 Marple** :  
**Piketon, OH 45661** :  
  
**MR. GREGORY KEVIN GROOMS** :  
**518 Marple** :  
**Piketon, OH 45661** :  
  
**MR. PAUL E. GROOMS** :  
**518 Marple** :  
**Piketon, OH 45661** :  
  
**MR. WILLIAM HALL** :  
**MRS. TRESSIE HALL** :  
**MS. MISTI HALL** :  
**643 Big Run Road** :  
**Piketon, OH 45661** :  
  
**MR. LAYTON F. HAMMOND** :  
**MRS. EVELYN HAMMOND** :  
**3755 US 23** :  
**Piketon, OH 45661** :  
  
**MR. RANDALL HAMMOND** :  
**MRS. KATHY HAMMOND** :  
**223 US Rt. #23** :  
**Lucasville, OH 45648** :  
  
**MR. STAN HANNAH** :  
**3590 Owl Creek Road** :  
**Lucasville, OH 45648** :

<b>MR. LARRY HARRIS</b>	:
<b>MRS. JANET HARRIS</b>	:
<b>175 Delay Drive</b>	:
<b>Piketon, OH 45661</b>	:
 	:
<b>MR. ROBERT HARRIS</b>	:
<b>520 Valley View Road</b>	:
<b>Piketon, OH 45661</b>	:
 	:
<b>MS. SANDRA HELTON</b>	:
<b>4046 Germany Road</b>	:
<b>Beaver, OH 45613</b>	:
 	:
<b>MRS. ANITA HODGE</b>	:
<b>- NO FORWARD</b>	:
 	:
<b>MR. CECIL HODGE</b>	:
<b>- NO FORWARD</b>	:
 	:
<b>MS. RITA HODGE</b>	:
<b>2633 Dutch Run Road</b>	:
<b>Beaver, OH 45613</b>	:
 	:
<b>WILLARD HORSLEY</b>	:
<b>P.O. Box 336</b>	:
<b>Lucasville, OH 45648</b>	:
 	:
<b>MS. BETTY LOU HOWARD</b>	:
<b>6041 Tapp Lane</b>	:
<b>Mt. Sterling, KY 54353</b>	:
 	:
<b>MR. EVERETT HOWARD</b>	:
<b>350 Moore Street</b>	:
<b>Piketon, OH 45661</b>	:

<b>MS. JANET HOWARD</b>	:
<b>204 Morningside Drive</b>	:
<b>Waverly, OH 45690</b>	:
 	:
<b>MS. JOANN ISAAC</b>	:
<b>MELISA ISAAC, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>SHANA ISAAC, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>6933 Chenoweth Fork Road</b>	:
<b>Piketon, OH 45661</b>	:
 	:
<b>MR. RONALD ISAAC</b>	:
<b>130 Saltcreek Road</b>	:
<b>Wakefield, OH 45687</b>	:
 	:
<b>MR. WARNER ISON</b>	:
<b>357 Bailey Chapel Road</b>	:
<b>Piketon, OH 45661</b>	:
 	:
<b>MR. DAVID JACKSON</b>	:
<b>MRS. JOANN JACKSON</b>	:
<b>JOANNA JACKSON, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>KALA JACKSON, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>- NO FORWARD</b>	:
 	:
<b>MR. EDWARD JENKINS</b>	:
<b>467 Taylor Hollow Road</b>	:
<b>Piketon, OH 45661</b>	:
 	:
<b>MRS. KRISTIE JENKINS</b>	:
<b>Estate of Fred Jenkins</b>	:
<b>4284 Germany Road</b>	:
<b>Beaver, OH 45613</b>	:
 	:
<b>MR. LARUE JENKINS</b>	:
<b>5232 Germany Road</b>	:
<b>Beaver, OH 45613</b>	:

**MR. PAUL JENKINS** :  
**5192 Germany Road** :  
**Beaver, OH 45613** :  
  
**MRS. BRENDA JONES** :  
**1363 Coal Dock Road** :  
**Waverly, OH 45690-9744** :  
  
**MR. JERRY JONES** :  
**1363 Coal Dock Road** :  
**Waverly, OH 45690-9744** :  
  
**MS. MINNIE JONES** :  
**84 Beaver Pike** :  
**- NO FORWARD 10/16/95** :  
**Waverly, OH 45690** :  
  
**MR. ROGER JONES** :  
**313 Darst Road** :  
**- NO FORWARD 4/20/97** :  
**Waverly, OH 45690** :  
  
**MS. BETTY JORDAN** :  
**20 O'Brien Road** :  
**Lucasville, OH 45648** :  
  
**MR. JAMES LAWRENCE KEESEE** :  
**508 Seal Avenue** :  
**Piketon, OH 45661** :  
  
**MRS. MARY KEESEE** :  
**508 Seal Avenue** :  
**Piketon, OH 45661** :  
  
**MS. TABITHA KEISER** :  
**6456 Laurel Ridge Road** :  
**Piketon, OH 45661** :  
  
:

**MS. BERNICE KNAPP** :  
**7039 US 23** :  
**Piketon, OH 45661** :

**MR. RALPH KUEHNER** :  
**MRS. JOANN KUEHNER** :  
**- NO FORWARD** :

**MS. KAY LAMBERT** :  
**Box 665** :  
**Piketon, OH 45661** :

**MS. SHARON LAPE** :  
**- NO FORWARD** :

**MS. DARLENE LEMASTER** :  
**2693 Happy Hollow Road** :  
**Piketon, OH 45661** :

**MR. JOSEPH LEMASTER** :  
**2693 Happy Hollow Road** :  
**Piketon, OH 45661** :

**MRS. NORMA JEAN LEMASTER** :  
**277 Curtis Lane** :  
**Waverly, OH 45690** :

**MR. ROBERT LEMASTER** :  
**277 Curtis Lane** :  
**Waverly, OH 45690** :

**MS. CINDY LEWIS** :  
**- NO FORWARD** :

<b>MR. GLEN LOVELY</b>	:
<b>6698 SR 335</b>	:
<b>Beaver, OH 45613</b>	:
<b>MRS. NORA LOVELY</b>	:
<b>6698 SR 335</b>	:
<b>Beaver, OH 45613</b>	:
<b>MR. RUSH LOVELY</b>	:
<b>6698 SR 335</b>	:
<b>Beaver, OH 45613</b>	:
<b>MR. MARVIN A. LUTE</b>	:
<b>MRS. DOROTHY R. LUTE</b>	:
<b>350 Thornton Drive Apt. 23-C</b>	:
<b>Piketon, OH 45661</b>	:
<b>ESTATE OF MR. ROGER LUTE</b>	:
<b>DECEASED</b>	:
<b>MR. WILLIAM J. LUTE</b>	:
<b>442 Darst Road</b>	:
<b>Waverly, OH</b>	:
<b>MR. CHARLES LYKINS</b>	:
<b>- NO FORWARD</b>	:
<b>MS. DONNA LYKINS</b>	:
<b>- NO FORWARD</b>	:
<b>MS. NELDA MAGGARD</b>	:
<b>MARIA MAGGARD, a minor,</b>	:
<b>by her Mother and Next Friend;</b>	:
<b>244 Carrico Fork Road</b>	:
<b>Piketon, OH 45661</b>	:

**MRS. JUANITA MCCOY** :  
**468 Curtis Lane** :  
**Waverly, OH 45690** :  
  
**MR. ROBERT MCCOY** :  
**468 Curtis Lane** :  
**Waverly, OH 45690** :  
  
**MR. ERIC MCDANIEL** :  
**MRS. TINA MCDANIEL** :  
**2763 Bobo Road** :  
**- NO FORWARD 10/24/95** :  
**Beaver, OH 45613** :  
  
**MR. RUSSELL E. MCDANIEL** :  
**General Delivery** :  
**Piketon, OH 45661** :  
  
**MR. WILLIAM E. MCDANIEL, JR.** :  
**P.O. Box 66** :  
**Piketon, OH 45661** :  
  
**MR. WILLIAM EARL MCDANIEL, SR.** :  
**P.O. Box 514** :  
**Piketon, OH 45661** :  
  
**MS. ROMA MCKEE** :  
**308 Bliss Road** :  
**Beaver, OH 45613** :  
  
**MR. EARL MCROBERTS** :  
**- NO FORWARD** :  
  
**MRS. KAREN MCROBERTS** :  
**P. O. Box 930** :  
**Piketon, OH 45661** :

**MR. CARL MONST** :  
**MRS. LAWANDA MONST** :  
**1482 Happy Hollow Road** :  
**- NO FORWARD 4/20/97** :  
**Piketon, OH 45661** :  
  
**MR. AMIL MONTGOMERY** :  
**3748 Bobo Road** :  
**- NO FORWARD 4/20/97** :  
**Piketon, OH 45661** :  
  
**MR. CHARLES MONTGOMERY** :  
**MRS. CONNIE MONTGOMERY** :  
**856 Adams Road** :  
**Beaver, OH 45613** :  
  
**MR. FRANKLIN MONTGOMERY** :  
**MRS. SUSAN MONTGOMERY** :  
**3736 Bobo Road** :  
**Beaver, OH 45613** :  
  
**MR. GLENN EDDIE MONTGOMERY** :  
**3736 Bobo Road** :  
**Beaver, OH 45613** :  
  
**MR. GREG MONTGOMERY** :  
**MRS. ANITA MONTGOMERY** :  
**- NO FORWARD 4/27/98** :  
  
**MR. JEFF MONTGOMERY** :  
**982 Adams Road** :  
**Beaver, OH 45613** :  
  
**MS. LEDA MONTGOMERY** :  
**110 Patterson Street** :  
**- NO FORWARD 10/16/95** :  
**Piketon, OH 45661** :

<b>MR. PAUL MONTGOMERY</b>	:
3618 Bobo Road	:
Beaver, OH 45613	:
	:
<b>MS. PAULA MONTGOMERY</b>	:
P.O. Box 110	:
Beaver, OH 45613	:
	:
<b>MS. RUBY MONTGOMERY</b>	:
242 St. Mary's Lane	:
Waverly, OH 45690	:
	:
<b>MR. TIM MONTGOMERY</b>	:
275 Stanns Lane	:
- NO FORWARD 10/19/95	:
Waverly, OH 45690	:
	:
<b>MRS. DONNA MUSICK</b>	:
1363 Morton Road	:
South Salem, OH 45681	:
	:
<b>MR. FLOYD MUSICK</b>	:
1363 Morton Road	:
South Salem, OH 45681	:
	:
<b>MR. CARL MYERS</b>	:
<b>MRS. VERA MYERS</b>	:
2033 Leeth Creek Road	:
Waverly, OH 45690	:
	:
<b>MR. ARTHUR NELSON</b>	:
2408 Rapp Hollow Road	:
Lucasville, OH 45648	:
	:
<b>MR. WILBUR NEWKIRK</b>	:
<b>MRS. MARTHA NEWKIRK</b>	:
- NO FORWARD	:
	:

<b>MR. CHARLES A. NICKELL</b>	:
926 Main Street	:
Piketon, OH 45661	:
	:
<b>MR. DAVID C. NICKELL</b>	:
1201 Beaver Pike	:
Waverly, OH 45690	:
	:
<b>MS. OVALENE NICKELL</b>	:
General Delivery	:
Piketon, OH 45661	:
	:
<b>MR. TOMMY W. NICKELL</b>	:
General Delivery	:
Piketon, OH 45661	:
	:
<b>MR. ERIC PENNISTEN</b>	:
- NO FORWARD 5/4/98	:
	:
<b>MR. GERALD PETERS</b>	:
- NO FORWARD	:
	:
<b>MS. LAVINIA PETERS</b>	:
19 1/2 Cordle Road	:
Waverly, OH 45690	:
	:
<b>MS. EMMA PINKERTON</b>	:
6978 St Rt 104	:
Piketon, OH 45661	:
<b>MS. DORIS PRESTON</b>	:
P.O.Box 311	:
Beaver, OH 45613	:
	:
<b>MR. MILLARD PRESTON, JR.</b>	:
- NO FORWARD	:

**MS. REBECCA RADCLIFF** :  
**1671 Newland Ridge Road** :  
**Waverly, OH 45690** :

**MS. WANDA RIDER** :  
**- NO FORWARD 4/27/98** :

**MR. ROGER RIGSBY** :  
**311 Darst Road** :  
**- NO FORWARD 4/20/97** :  
**Waverly, OH 45690** :

**MRS. BETTY JOAN SALISBURY** :  
**2518 Germany Road** :  
**Beaver, OH 45613** :

**MR. DEAN SALISBURY** :  
**2518 Germany Road** :  
**Beaver, OH 45613** :

**MR. DAVE SAPP** :  
**- NO FORWARD** :

**- MRS. PATRICIA SCHILLING** :  
**913 Adams Road** :  
**Beaver, OH 45613** :

**MR. TEX SCHILLING** :  
**913 Adams Road** :  
**Beaver, OH 45613** :

**MR. IRVAN SCHOOLCRAFT** :  
**MRS. EARLENA SCHOOLCRAFT** :  
**P.O. Box 938** :  
**- NO FORWARD** :

<b>MRS. BRENDA SCHRADER</b>	:
3413 Germany Road	:
Beaver, OH 45613	:
	:
<b>MR. CARRY SCHRADER</b>	:
3413 Germany Road	:
Beaver, OH 45613	:
	:
<b>MR. DAVID SEYMOUR</b>	:
1742 Beekman Ridge Road	:
Peebles, OH 45660	:
	:
<b>MR. ALBERT SHRECK</b>	:
<b>MRS. PHYLLIS SHRECK</b>	:
25 McCaleb Road	:
Beaver, OH 45613	:
	:
<b>MR. DALE SKINNER</b>	:
P.O. Box 258	:
Lucasville, OH 45648	:
	:
<b>MS. RUTH SKINNER</b>	:
P.O. Box 258	:
Lucasville, OH 45648	:
	:
<b>MRS. ELAINE JO SMITH</b>	:
AMANDA CONLEY, a minor,	:
by her Mother and Next friend	:
508 Seal Avenue	:
Piketon, OH 45661	:
	:
<b>MR. FRED L. SMITH</b>	:
- NO FORWARD 4/27/98	:
	:
<b>MR. GARY SMITH</b>	:
Lake White Trailer Court Lot 3	:
- NO FORWARD	:
Piketon, OH 45661	:

**MR. GREGG SMITH** :  
**- NO FORWARD** :

**MR. WAYNE SMITH** :  
**508 Seal Avenue** :  
**Piketon, OH 45661** :

**MS. VICKIE SOUMMERS** :  
**TERRY SOUMMERS, a minor,** :  
**by his Mother and Next Friend** :  
**547 Plyleys Lane Apt 37** :  
**Chillicothe, OH 45601** :

**MR. JEREMY STAFFORD** :  
**MRS. MARSCHA STAFFORD** :  
**JEREMY STAFFORD, a minor,** :  
**by his Mother and Next Friend;** :  
**- AMANDA STAFFORD, a minor,** :  
**by her Mother and Next Friend;** :  
**- NO FORWARD** :

**MS. PATTY SRAFFORD** :  
**- NO FORWARD** :

**MR. JAMES STARR** :  
**132 Hodge Road** :  
**Piketon, OH 45661** :

**MRS. VICKIE STARR** :  
**132 Hodge Road** :  
**Piketon, OH 45661** :

**MS. TINA STEFFY** :  
**2626 Shyville Road Off 48** :  
**- NO FORWARD 10/18/95** :  
**Piketon, OH 45661** :

**MR. HERBERT STEPP**

**MRS. INES STEPP**

**- NO FORWARD**

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**MR. ANTHONY G. STURGELL** :  
**540 E. Lincoln Ave Lot 39** :  
**Ada, OH 45810** :  
  
**MR. BENNIE D. STURGELL** :  
**3507 CR 44** :  
**Ada, OH 45810** :  
  
**MR. PURVIS STURGELL** :  
**MRS. MOLLIE STURGELL** :  
**MR. PURVIS STURGELL, JR.** :  
**MR. STAN LEE STURGELL** :  
**580 E Lincoln Avenue** :  
**Ada, OH 45810** :  
  
**MR. CHARLES TACKETT** :  
**Dutch Run Road** :  
**Piketon, OH 45661** :  
  
**ESTATE OF MS. EVA TACKETT** :  
**DECEASED** :  
  
**MR. FRED TACKETT** :  
**21 4 Mile Road** :  
**Waverly, OH 45690** :  
  
**MR. GARY TACKETT** :  
**2635 Dutch Run Road** :  
**Beaver, OH 45613** :  
  
**MS. HEATHER TACKETT** :  
**508 Seal Avenue** :  
**Piketon, OH 45661** :  
  
**MR. JEFFERY ROBERT TACKETT** :  
**508 Seal Avenue** :  
**Piketon, OH 45661** :  
  
:

**MS. NANCY TACKETT** :  
**6787 State Route 772** :  
**Piketon, OH 45661** :

**MR. RICK TACKETT** :  
**MRS. JEANNETTE TACKETT** :  
**100 Nursing Home Road** :  
**- NO FORWARD 10/18/95** :  
**Piketon, OH 45661** :

**MRS. SARAH TACKETT** :  
**21 1/2 Mile Road** :  
**Waverly, OH 45690** :

**MR. TED TACKETT** :  
**MRS. ANGIE TACKETT** :  
**3705 St. Rt. 772** :  
**Otway, OH 45650** :

**MRS. DARLENE TAYLOR** :  
**658 Adams Road** :  
**Beaver, OH 45613** :

**MR. FRANKLIN TAYLOR** :  
**3378 Germany Road** :  
**Beaver, OH 45613** :

**MS. GLORIA TAYLOR** :  
**3340 Sunfish Creek Road** :  
**Piketon, OH 45661** :

**MR. GREGORY TAYLOR** :  
**658 Adams Road** :  
**Beaver, OH 45613** :

**MRS. JUDY TAYLOR** :  
**3378 Germany Road** :  
**Beaver, OH 45613** :

**MR. RANDY TAYLOR** :  
**519 Rose Drive** :  
**Waverly, OH 45690** :

**MR. ROY TERRY** :  
**MRS. BARBARA TERRY** :  
**208 Curtis Lane** :  
**Waverly, OH 45690** :

**MR. JACK THOMPSON** :  
**MRS. WILLIE THOMPSON** :  
**P.O. Box 116** :  
**Piketon, OH 45661** :

**MR. JOHN TINDALL** :  
**MRS. BONNIE TINDALL** :  
**BILLY TINDALL, a minor,** :  
**by his Mother and Next Friend;** :  
**BRANDI TINDALL, a minor,** :  
**by her Mother and Next Friend;** :  
**- NO FORWARD** :

**MR. JERRY VARNEY** :  
**MRS. PRISCILLA VARNEY** :  
**- NO FORWARD** :

**MS. PAM WELKER** :  
**325 Southworth Road** :  
**- NO FORWARD 10/25/95** :  
**Lucasville, OH 45648** :

**MR. DONALD L. WHITT** :  
**200 Main Street** :  
**Piketon, OH 45661** :

<b>MR. CHARLES WILLETT</b>	:
<b>MRS. VIOLET WILLETT</b>	:
<b>BRAD WILLETT, a minor,</b>	:
<b>by his Mother and Next Friend</b>	:
<b>319 Valleyview</b>	:
<b>- NO FORWARD 10/18/95</b>	:
<b>Piketon, OH 45661</b>	:
 <b>MR. &amp; MRS. ELMER WILLETT</b>	:
<b>- NO FORWARD 4/27/98</b>	:
 <b>MR. ROBERT E. WILLETT</b>	:
<b>- NO FORWARD</b>	:
 <b>MR. LINVILLE WOODS</b>	:
<b>643 Big Run Road</b>	:
<b>Piketon, OH 45661</b>	:
 <b>MRS. BERTHA L. ZIMMERMAN</b>	:
<b>1173 Loop Road</b>	:
<b>Piketon, OH 45661</b>	:
 <b>MR. CLARENCE ZIMMERMAN</b>	:
<b>7039 US 23</b>	:
<b>Piketon, OH 45661</b>	:
 <b>MRS. GENEVA ZIMMERMAN</b>	:
<b>7039 US 23</b>	:
<b>Piketon, OH 45661</b>	:
 <b>MR. LAWRENCE ZIMMERMAN</b>	:
<b>1173 Loop Road</b>	:
<b>Piketon, OH 45661</b>	:
 <b>Plaintiffs,</b>	:
 <b>vs.</b>	:

✓**DIVESTED ATOMIC CORPORATION** :  
c/o The Corporation Trust Co.  
**Corporation Trust Center** :  
**1209 Orange Street** :  
**Wilmington, DE 19801** :  
  
and :  
  
✓**GOODYEAR TIRE AND RUBBER** :  
**COMPANY** :  
c/o James Boyazis :  
1144 E. Market Street :  
**Akron, OH 44316** :  
  
and :  
  
✓**LOCKHEED MARTIN ENERGY** :  
**SYSTEMS, INC.** :  
f/k/a **MARTIN MARIETTA** :  
**ENERGY SYSTEMS, INC.** :  
c/o C T Corporation System :  
815 Superior Avenue, NE :  
**Cleveland, OH 44114** :  
  
**Defendants.** :

COME NOW Plaintiffs, by and through their counsel of record, and for their Complaint against Defendants, state as follows:

#### **PARTIES**

1. Plaintiffs state that they are property owners, lessees of property or residents of Pike or Scioto Counties, Ohio. Plaintiffs were members of the class action, Boggs v. Divested, Case No. C-2-90-840, pending before Judge Rice prior to decertification of the class.
2. Defendant Divested Atomic Corporation ("Atomic") is now and, at all times relevant hereto, was a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business in said State. Divested Atomic

Corporation is the successor in interest to Goodyear Atomic Corporation, which no longer exists, but during times relevant hereto, was a corporation engaged as a prime contractor to the Portsmouth Uranium Enrichment Complex. Atomic is responsible for the acts and omissions of its predecessor in interest, Goodyear Atomic Corporation.

3. Defendant Goodyear Tire and Rubber Company ("Goodyear") is now, and at all times relevant hereto, a corporation duly organized and existing under the laws of the State of Ohio, having its principal place of business in said State.

4. Defendant Lockheed Martin Energy Systems, Inc., formerly known as Martin Marietta Energy Systems, Inc. ("Martin Marietta") is now, and at all times relevant hereto, a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business in said State.

#### **FEDERAL JURISDICTION AND VENUE**

5. Martin Marietta was transacting business within the State of Ohio and/or had sufficient contacts, ties or relations with the State of Ohio so as to subject it to the jurisdiction of this Court. Moreover, this Court has personal jurisdiction over Martin Marietta pursuant to 42 U.S.C. § 2210(n)(2). Venue is proper pursuant to 28 U.S.C. § 1391(a), inasmuch as the claim arose in this District, and under 42 U.S.C. § 2210(n)(2), inasmuch as the nuclear incidents occurred in this District.

6. Defendants Goodyear and Atomic were transacting business within the State of Ohio and/or had sufficient contacts, ties, or relations with the State of Ohio so as to subject it to the jurisdiction of this Court. Moreover, this Court has personal jurisdiction over Martin Marietta pursuant to 42 U.S.C. § 2210(n)(2). Venue is proper pursuant to 28 U.S.C. § 1391(a), inasmuch as the claim arose in this District, and under 42 U.S.C. § 2210(n)(2), inasmuch as the nuclear incidents occurred in this District.

7. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 inasmuch as Plaintiffs have alleged liability arising under Federal statutes, 42 U.S.C. § 9601, *et seq.*, inasmuch as Plaintiffs have alleged a civil action arising under the Comprehensive Environmental Response, Compensation Liability Act ("CERCLA"), and inasmuch as this is a public liability action within the meaning of 42 U.S.C. § 2210(n)(2), arising out of nuclear incidents that occurred in this District.

8. This Court has jurisdiction over the non-federal claims based upon the doctrines of ancillary and pendent jurisdiction.

#### **OPERATIVE FACTS**

9. The Portsmouth Uranium Enrichment Complex ("Portsmouth"), which began production in 1955, is located in Pike County in Southeastern Ohio. The facility was owned by the United States and was part of the U.S. Department of Energy ("DOE") until on or about July 1, 1993. Prior to November 16, 1986, Goodyear Atomic Corporation, predecessor in interest to Defendant Atomic, a wholly-owned subsidiary of Goodyear, operated the Portsmouth facility, and from November 16, 1986 to the present, Defendant Martin Marietta operated the facility.

10. The Portsmouth facility converted solid uranium hexafluoride into a gas, and increased or enriched one isotope of the gas to between two and five percent for commercial reactors and to more than 93 percent for nuclear weapons programs.

11. At all times relevant hereto, operation at Portsmouth involved the use and/or generation of vast amounts of radioactive and chemical materials. The highly enriched uranium used at Portsmouth was a material which constitutes source, special nuclear or by-product material, as defined by the Atomic Energy Act, 42 U.S.C. § 2011, *et seq.* Exposure to large amounts of radiation produced by uranium can cause a variety of serious illnesses.

The highly enriched uranium produced at Portsmouth was potentially subject to accidental nuclear criticalities. Operations at Portsmouth also involved disposal and releases of radioactive technetium, which is a dangerous fission product, as well as widespread use of other toxic and hazardous materials and dangerous chemical processes. Some of the non-radioactive hazardous chemicals include fluoride, polychlorinated biphenyl ("PCB"), oil, grease, nitrates, ammonia, copper, zinc, iron, nickel, chromium, manganese, arsenic and sewage treatment plant effluents.

12. The radioactive and hazardous wastes and other pollutants generated and released by Portsmouth are regulated by numerous environmental, health and safety statutes and regulations and DOE policies, orders and regulations relating to and including, *inter alia*, the Atomic Energy Act, 42 U.S.C. § 2201(i)(3) *et seq.* (radioactive solid wastes and radioactive liquid effluents); the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (non-radioactive liquid effluents discharged into water); the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (air emissions, both radioactive and non-radioactive); the Refuse Act, 33 U.S.C. § 407 (pollution of waterways); the Resources Conservation and Recovery ("RCRA"), 42 U.S.C. § 6901 *et seq.* (solid non-radioactive and radioactive/non-radioactive wastes); NPDES permits; and the Comprehensive Environmental Response, Compensation and Liability Act (":CERCLA"), 42 U.S.C. § 9601 *et seq.* (non-radioactive hazardous substances).

13. In connection with operations at the Portsmouth facility, Martin Marietta and its predecessor in interest Atomic (through its predecessor in interest Goodyear Atomic Corp.), have engaged in a continuous course of negligent, careless, reckless, intentional and unlawful conduct resulting in ongoing and repeated discharges of both radioactive and non-radioactive hazardous substances including, but not limited to, uranium, technetium and chromium, into the environment surrounding the facility. These actions have constituted

numerous and repeated violations of state and federal environmental health and safety statutes and regulations, as well as DOE policies, order and regulations relating to generation, storage, treatment and disposal of hazardous substances. This course of wrongful conduct dates back to the beginning of operations at the facility. The facts establishing that Defendants engaged in such wrongful conduct were unknown to and, in fact, concealed from the Plaintiffs.

14. Radioactive wastes and chemicals, both classified and un-classified, are buried at Portsmouth. Defendants also detected uranium and hazardous substances in on-site wells near the burial site and the holding pond.

15. In May, 1985, the United States Environmental Protection Agency ("USEPA") sent the DOE a Notice of Noncompliance with the Toxic Substances Control Act because of Portsmouth's polychlorinated biphenyl (PCB) contamination problems. About 24,000 cubic feet of solids in a drainage ditch and 800 drums of sludge at an old sewage plant were contaminated with PCB's. In addition, the exhaust ventilation system in the cascade building dripped PCB's onto the floor.

16. The USEPA reported that for Defendant to fully comply with the USEPA's toxic substance regulations, it would have to:

- a. Drain and replace about 150,000 gallons of the cascade lubrication oil that is contaminated with PCB's. There is no evidence that they have done so;
- b. Replace about 13,000 gaskets in the cascade building ventilation system to eliminate PCB contamination. Portsmouth did not plan to do this because of the \$ 5 million cost;
- c. Dig out 24,000 cubic feet of contaminated soil, package it in drums and ship it to a hazardous waste disposal site;

d. Incinerate the sewage treatment sludge. Portsmouth planned to store these drums containing uranium until the incinerator at Oak Ridge became operation in 1987.

17. A February, 1985 internal audit found that Portsmouth's records did not properly account for up to fifteen (15%) percent of the PCB wastes generated since 1982.

18. According to the United States General Accounting Office, as of November, 1985, about 80,000 cubic yards of lithium hydroxide, generated by Oak Ridge, had been stored at Portsmouth in approximately 160,000 fiberboard containers. According to Portsmouth officials at the time, none of the containers were in good shape. Portsmouth found lithium hydroxide in the soil and water outside the warehouse where it was stored. According to the Ohio EPA, Portsmouth must either properly dispose of or reuse this waste to comply with RCRA regulations.

19. In March, 1985, at the DOE's request, NUS Corporation of Gaithersburg, Maryland, began an assessment of Portsmouth's environmental program. It reported its findings to the DOE and to Portsmouth in August, 1985. The NUS report noted that ground water monitoring wells were not properly located to allow for early detection of contamination, nor did they provide a good basis for developing quality assessments.

20. The 1990 Tiger Team assessment of Portsmouth, conducted in September, 1989 by the DOE's office of ES&H, reported:

Shortcomings in environmental program management were reflected by the lack of formality in parts of the program. For example, self-assessment activities, documentation of sampling and analysis procedures and quality assurances and control for radiological measurements were found lacking.

21. According to the Tiger Team, inadequate contamination control and occupational safety practices in three Portsmouth maintenance support facilities required

immediate corrective measures while the DOE's Tiger Team was on site. Many workers were found to be eating, drinking and smoking in these contaminated areas. There was a lack of routine contamination surveys and little follow-up and accountability.

22. Although occupational safety standards are set forth in the Portsmouth Safety Manual, the Tiger Team found that the workers did not understand them and supervisors did not enforce them. Unsafe practices were observed in Tiger Team member walkthroughs that required prompt abatement.

23. The Tiger Team reported that "management performances over the past three years (1987-1989) had been reactionary focusing on needed ES&H upgrades when prompted by audits, appraisals, and regulatory activity."

24. The Tiger Team found that "Portsmouth management approved and initiated projects prior to completion of National Environmental Policy Acts ("NEPA") permits and the existence of a number of unpermitted air sources. Also, management failed to apply best management practices and epitomize the most consequential deficiencies that the team noted in the environmental programs. For example, internal oversight and self-appraisal of environmental compliance; documentation of laboratory standard operating procedures and practice; and radiological measurement QA/QC practices."

25. The Tiger Team noted in its report that "the deficiencies within the environmental programs at Portsmouth appear to stem from inadequacies in oversight, incomplete policy implementation and a general lack of detailed procedures."

26. The Tiger Team reported that "[T]he current Portsmouth management team has little nuclear expertise external to the uranium enrichment program, nor has it availed itself of available external technical expertise in this area."

27. The most significant non-compliance findings identified during the Tiger Team assessment included the following:

- a. Leaking PCB gaskets in the process building constitute use of PCB's in a manner "other than totally enclosed";
- b. There are potentially a number of unpermitted air sources at Portsmouth;
- c. Projects at Portsmouth have been approved and initiated prior to completion of NEPA review of the proposal;
- d. A lack of integration between NEPA and RCRA activities;
- e. Storage of restricted land-banned wastes beyond one year.

28. When making radiological dose assessments, the Tiger Team found a lack of written procedures and a dose assessment plan, failure to independently verify computer-generated dose assessment calculations, and a lack of criteria for performing dose assessments.

29. There were air emission sources for which proper Permit to Operate (PTO) applications had not been made or submitted.

30. In March, 1990, the U.S. General Accounting Office ("GAO") reported that Portsmouth was second only to Fernald in terms of serious environmental problems. GAO reported nine radiological protection problems at Portsmouth. GAO reported two safety and health problems at Portsmouth where significant risk exists, or substantial non-compliance with DOE orders; and 37 safety and health problems of significant non-compliance with DOE orders. GAO also reported that 55 environmental problems were present at Portsmouth: 12 involving air contamination, two involving soil contamination, seven involving surface water contamination, six involving ground water contamination, 12

involving waste management, nine involving toxic contamination, one involving quality assurance, six involving management of inactive waste sites. Sixteen of these involved a high risk for a threat to health to occur. Sixteen more problems involved a potential for evolving into a threat to health. The other 26 were generally administrative non-compliance and were indirectly related to environmental risk.. The report also stated that Portsmouth was a significant RCRA non-complier for major violates of groundwater monitoring, facility closure, post-closure or financial responsibility requirements.

#### **CLASS ACTION ALLEGATIONS**

31. Plaintiffs bring this action pursuant to Rules 23(a) and 23(b)(1)(A), 23(b)(1)(B) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class consisting of all persons, firms or entities who were residents, property owners or lessees of property who are subject to wind-borne particulates from the Portsmouth Gaseous Diffusion Plant ("Portsmouth") and to water which has run off from the Portsmouth site, which the Plaintiffs believe constitutes an area roughly equal to a radius of six (6) miles around the plant.

32. At said site, Defendant Atomic, through its predecessor in interest, Goodyear Atomic Corp., operated and maintained a gaseous diffusion plant for the enrichment of uranium. This involved the use and/or disposal of other radioactive materials and hazardous materials from 1955 to November 16, 1986, at which time Defendant Martin Marietta took over operations of the facilities, which includes ponds and other storage sites for uranium and other radioactive and hazardous wastes.

33. Plaintiffs believe that because of the number of residents, property owners, business owners or lessees of property in the area around Portsmouth, the members of the Class are so numerous that joinder of all the members is impracticable. While the exact

number of class members is unknown to the Plaintiffs at this time, Plaintiffs believe that there are approximately ten thousand members of the Class.

34. Among the questions of law and fact common to the Class are:

- a. Whether any or all of the Defendants, Atomic, Goodyear and/or Martin Marietta, is/are strictly liable for the defective and unreasonably dangerous conditions at Portsmouth and the environmental, health and safety system therein;
- b. The causes of emissions, releases and leaks of radioactive and hazardous materials and the constituents and their fiscal impact on the local population and economy;
- c. The foreseeability of the emissions, releases and leaks of radioactive and/or hazardous materials and constituents and their fiscal impact on the local population and economy;
- d. The financial effect, i.e., types of economic damage, rather than amounts, of emissions, releases and leaks of radioactive and/or hazardous materials and constituents;
- e. What precautions, if any, were taken after the first leaks, releases or emissions of radioactive and/or hazardous materials and constituents occurred;
- f. Whether Defendants Atomic, Goodyear and Martin Marietta's operation of Portsmouth constitutes a private nuisance;
- g. Whether the Defendants have acted willfully, recklessly or with gross negligence in failing to take precaution or warn the Class members after the first emissions, releases and leaks of radioactive and/or hazardous materials and constituents at Portsmouth;

h. Whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

35. Plaintiffs' claims are typical of each Class member, as all members of the Class are residents, property owners or lessees of property near Portsmouth at the time in question.

36. Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained legal counsel competent and experienced in class action, personal injury, environmental and property damage litigation to seek to recover damages from the Defendants in the amount of the diminution of value of their property, lost income as a result of Defendants' conduct and the amount of the cost of response, damage for injury and loss of natural resources, for emotional distress and for establishment of a medical monitoring fund.

37. A class pursuant to 23(b)(1)(A) is appropriate because the prosecution of separate actions by or against individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for the party opposing the class since, in addition to monetary damages, Plaintiffs are seeking to establish the rights and duties of Defendants with respect to the various federal, state and local statutes and regulations dealing with regulation of radioactive and/or hazardous materials and constituents.

38. A class pursuant to 23(h)(1)(B) is appropriate because of the numbers of property and business owners who were injured, and because the cost of response and damage to the environment are so great that a risk exists of a limited fund of the Defendants' assets. Thus, such a class is appropriate in order to avoid adjudications with

respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of other members not party to the adjudications.

39. Class certification pursuant to 23(b)(3) is appropriate because common questions of law or fact predominate over individual questions of law or fact and because class certification is superior to other methods for adjudication of the controversy since there is little interest on the part of the Class members to individually control the prosecution of the litigation, and since it is desirable to concentrate the litigation in a single forum to prevent a multiple litigation involving common issues that would tax the judiciary with duplicative proceedings.

**COUNT I**

**NEGLIGENCE**

40. The Plaintiffs incorporate Paragraphs 1 through 39 by reference, as if fully rewritten.

41. At all times relevant hereto, the Defendants, Atomic (through its predecessor in interest Goodyear Atomic Corp.), Goodyear and Martin Marietta, operated Portsmouth, which processed radioactive and/or hazardous materials at Piketon, Ohio.

42. During the years (1955-1986) that Defendant Atomic (through its predecessor in interest Goodyear Atomic Corp.) operated and was responsible for Portsmouth, Defendant Atomic accumulated, handled, processed, treated, stored, buried and otherwise disposed of large quantities of radioactive and/or hazardous materials and constituents at Portsmouth.

43. Defendant Goodyear was the parent corporation of both Defendant Atomic and its predecessor in interest Goodyear Atomic Corp. Through its activities with both

subsidiaries, Defendant Goodyear operated and was responsible for operations at Portsmouth, including the handling, processing, treating, storage, burial and other disposal of large quantities of radioactive and/or hazardous materials and constituents.

44. During the years (1986 to 1993) that Defendant Martin Marietta operated and was responsible for Portsmouth, Defendant Martin Marietta accumulated, handled, processed, treated, stored, buried and otherwise disposed of large quantities of radioactive and/or hazardous materials and constituents at Portsmouth.

45. Defendants Atomic, Goodyear and Martin Marietta knew, or should have known, that the radioactive and/or hazardous materials and constituents posed a hazard to the health, emotional well-being and property rights of Plaintiffs.

46. Defendants Atomic, Goodyear and Martin Marietta had a duty to properly control and contain the radioactive and/or hazardous materials and constituents within the confines of Portsmouth, which they operated and maintained, and to prevent said radioactive and/or hazardous materials and constituents from being released into the air and allowed to migrate or leak into the groundwater, surface water, rivers and soils in the vicinity.

47. Defendants Atomic, Goodyear and Martin Marietta breached their duty to Plaintiffs by failing to properly control and contain the radioactive and/or hazardous materials and constituents within the confines of Portsmouth, which they operated and maintained, by negligently releasing the radioactive and/or hazardous materials and constituents into the air and allowing said radioactive materials and constituents to migrate or leak into groundwater, surface water, rivers and soil in the vicinity.

48. These releases and contamination of the air, groundwater, surface water, rivers and soil in the vicinity of Portsmouth were proximately caused, and their results aggravated,

by the negligent acts and/or omissions of the Defendants, including, but not limited to, the following:

- a. Permitting the emissions, releases and leaks of radioactive and/or hazardous materials and constituents from Portsmouth to occur;
- b. Failing to determine whether and how the emissions, releases and leaks of radioactive and/or hazardous materials and constituents occurred, and in failing to correct the problems to prevent further leakage and emissions;
- c. Failing to provide adequate containment of the radioactive and/or hazardous materials and constituents;
- d. Failing to provide adequate air, surface water, groundwater and soil sampling and/or monitoring to detect releases of radioactive and/or hazardous materials and constituents;
- e. Failing to take proper measurements of particulate sizes and emissions;
- f. Failing to test incoming shipments adequately for the presence of hazardous or toxic materials;
- g. Failing to timely and adequately warn or otherwise notify Plaintiffs and other residents and landowners in the vicinity of such releases and contamination and the effects thereof;
- h. Failing to take timely and adequate remedial actions to contain and clean up such contamination, and to prevent recurring releases;
- i. Failing to properly train and supervise their employees to ensure that the necessary safeguards would be followed in the event that any emissions, releases or leaks of radioactive and/or hazardous materials and constituents from Portsmouth might occur;

j. Failing to comply with applicable federal and state regulations, licenses or orders;

49. As a direct and proximate result of the above negligence, the Plaintiffs and the members of the Class have been damaged. Said damage includes, but is not limited to, property damage, loss of use and enjoyment of their property, diminution of value to real estate, loss of income, emotional distress, including fear of increased risk of cancer, and contamination of the soil, surface water, groundwater and air.

50. As a proximate result of the above negligent acts or omissions, the Plaintiffs and the members of the Class have been damaged in the amount of Thirty Million (\$30,000,000) Dollars.

## **COUNT II**

### **ABSOLUTE OR STRICT LIABILITY**

51. The Plaintiffs incorporate paragraphs 1 through 50 by reference, as if fully rewritten.

52. The accumulation, handling and processing of radioactive and/or hazardous materials and/or the concomitant treatment, storage, burial or other disposal of radioactive and other hazardous materials and constituents are abnormally dangerous or ultrahazardous activities; i.e., ones which necessarily involve a risk of serious harm to the person, land or chattels of others which cannot be eliminated by the exercise of the utmost care and are not a matter of common usage.

53. Defendants Atomic, Goodyear and Martin Marietta are, thus, strictly liable to the Plaintiffs and the members of the Class for all damages which result from the activities at Portsmouth.

54. As a direct and proximate result of Defendants engaging in the aforementioned activities, and the resultant leaks and emissions therefrom Plaintiffs and the members of the Class have been damaged in the amount of Thirty Million (\$30,000,000) Dollars.

**COUNT III**

**PRIVATE NUISANCE**

55. Plaintiffs incorporate paragraphs 1 through 54 by reference, as if fully rewritten.

56. Defendants Atomic, Goodyear and Martin Marietta unreasonably interfered with the use and enjoyment of the property of the Plaintiffs and the members of the Class by their operation of Portsmouth, such operation having included the activities specified in paragraphs 1 through 32 above.

57. As a direct and proximate result of Defendants Atomic, Goodyear and Martin Marietta maintaining a private nuisance, Plaintiffs and the members of the Class are seeking a temporary and permanent injunction prohibiting further processing of radioactive and/or hazardous materials at Portsmouth, unless such processing is done in compliance with all federal, state and local laws and regulations and without allowing any offsite contamination. Plaintiffs and the members of the Class also seek remediation of all ancillary facilities, including operating abandoned ponds, to halt offsite releases from these facilities and to bring them into compliance with all applicable federal, state and local laws and regulations. However, since Defendants no longer operate Portsmouth, Plaintiffs cannot obtain injunctive relief and, therefore, in the alternative, Plaintiffs and the members of the Class seek compensation in the amount of Thirty Million (\$30,000,000) Dollars for the diminution of value to their Property, the loss of enjoyment of their property and restoration of their

property to its condition prior to the emissions, releases and leaks of radioactive and/or hazardous materials from Portsmouth.

**COUNT IV**

**TRESPASS**

58. Plaintiffs incorporate paragraphs 1 through 57 by reference, as if fully rewritten.

59. Defendants Atomic, Goodyear and Martin Marietta negligently and intentionally allowed emissions, releases and/or leaks of radioactive and/or hazardous materials into the air, water and soil, constituting a continuing trespass onto the property of the Plaintiffs and the members of the Class. Defendants' conduct in allowing emissions, releases, and/or leaks of radioactive and/or hazardous materials into the air, water and soil became intentional when Defendants became aware of said emissions, releases and/or leaks.

60. As a direct and proximate result of Defendants Atomic, Goodyear and Martin Marietta's continuing trespass, Plaintiffs and the members of the Class are seeking a temporary and permanent injunction prohibiting further processing of radioactive and/or hazardous material at Portsmouth, unless such processing is done in compliance with all federal, state and local laws and regulation sand without allowing any offsite contamination. Further, Defendants should be mandated to issue warnings advising Plaintiffs and the members of the Class of the potential serious health effects which they may face as a result of their exposures to radiation. However, since Defendants no longer operate Portsmouth, Plaintiffs cannot obtain injunctive relief and, therefore, in the alternative, Plaintiffs and the members of the Class seek compensation in the amount of Thirty Million (\$30,000,000) Dollars for the diminution of value of their property and restoration of their property to its

condition prior to the emissions, releases and leaks of radioactive and/or hazardous materials from Portsmouth.

**COUNT V**

**VIOLATIONS OF THE COMPREHENSIVE RESPONSE,  
COMPENSATION AND LIABILITY ACT, 42 U.S.C. § 9601 ET SEQ.**

61. The Plaintiffs incorporate paragraphs 1 through 60 by reference, as if fully rewritten.
62. Portsmouth is a facility within the meaning of CERCLA, 42 U.S.C. § 9601, et seq.
63. Defendants Atomic (through its predecessor in interest Goodyear Atomic Corp.), Goodyear and Martin Marietta served as operators of Portsmouth at times when hazardous substances, within the meaning of CERCLA, were disposed of at that facility.
64. Defendants Atomic, Goodyear and Martin Marietta operated a facility where hazardous materials were disposed of. In addition, Atomic, Goodyear and Martin Marietta arranged for the disposal of hazardous substances. As a proximate result of Defendants' arrangements for disposal of hazardous substances, there have been releases and threatened releases of hazardous substances, in violation of CERCLA.
65. Throughout the period when Atomic, Goodyear and Marietta operated Portsmouth, there were repeated and continuous releases and threatened releases of hazardous substances into the environment.
66. As a proximate result of the releases of hazardous substances into the environment surrounding Portsmouth, Plaintiffs and the members of the Class have incurred and will continue to incur necessary response costs consistent with the National Contingency Plan.

67. The releases and threatened releases of hazardous substances into the environment surrounding Portsmouth were the result of willful misconduct and/or willful negligence within the privity and/or knowledge of Defendants, and were primarily caused by violations of applicable environmental safety or operating standards or regulations.

68. Pursuant to CERCLA, 42 U.S.C. § 9607, Defendants are liable for the necessary response costs of Plaintiffs.

69. As a proximate result of the above acts or omissions, Plaintiffs are damaged in a substantial amount, plus interest, to be proven at trial.

#### **COUNT VI**

##### **PUNITIVE DAMAGES**

70. Plaintiffs incorporated paragraphs 1 through 69 by reference, as if fully rewritten.

71. The foregoing acts and omissions by the Defendants were willful, wanton and/or grossly negligent. Furthermore, Defendants acted in the foregoing manner with conscious disregard for the safety and rights of Plaintiffs and the members of the Class, which had a great probability of causing substantial harm.

72. As a direct and proximate result of the aforementioned acts of Defendants Atomic, Goodyear and Martin Marietta, Plaintiffs and the members of the Class have been damaged as hereinbefore and hereinafter set forth.

**WHEREFORE**, the Plaintiffs request:

1. That this action be certified as a class action;
2. That the Court enter judgment in favor of the Plaintiffs and the members of the Class, and against Defendants Atomic, Goodyear and Martin Marietta, jointly and severally, in the amount of Thirty Million (\$30,000,000) Dollars in compensatory damages;

3. That the Court impose a medical monitoring fund in an amount sufficient to provide funds for medical diagnostic and treatment services, in order the Plaintiffs and the members of the Class may receive such medical services for the diagnosis and treatment of potentially cancerous and other abnormal genetic conditions and other health problems which may manifest in Plaintiffs and the members of the Class;

4. That upon Count VI, the Court award punitive damages in favor of Plaintiffs and the members of the Class and against Defendants in the amount of Three Hundred Million (\$300,000,000) Dollars;

5. That upon Count V the Court award response costs, penalties, attorneys' fees and other relief allowed by law;

6. That Plaintiffs and the members of the Class be afforded all other legal and equitable relief to which they may be entitled, including, but not limited to, attorneys' fees and expenses.

Respectfully submitted,

  
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**JURY DEMAND**

With the filing of this Complaint, Plaintiffs hereby demand a trial by jury.

Louise M. Roselle/cp  
Louise M. Roselle